

02/003/03/basic/TN 20

BASIC (TN 20) (Includes thru TN 19)
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Audience: DO/BO/TSC--CR, CR TII,
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TSC-SR; PSC--CA, CRTA, CS, ICDS, IES,
ISRA, RECONR; ODO IND-CATA; ODO
SHARE-CA, RECONR; OIO--CA, CATA,
CC, CDA, CTS, FCR, LC, RECONR

Originating Office: ORSI

PROGRAM OPERATIONS MANUAL SYSTEM

Part 02 - General

Chapter 003 - Evidence

Subchapter 03 - Citizenship, Alien Status and Residency

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Background

This is a reissuance of the entire subchapter in the rewrite format.

Explanation of Manual Changes

00303.001 Requirement of U.S. Citizenship or Appropriate Alien Status

Subsection D contains new material that reflects that the U.S. Civil Code (8 USC 1104) provides that the Immigration and Naturalization Service (INS) has jurisdiction for citizenship and alien status decisions for individuals in the U.S. and that the State Department has jurisdiction for citizenship decisions for individuals outside the U.S.

00303.100 U.S. Citizenship

Subsection B provides new examples demonstrating dual citizenship.

Effective Date: Upon Receipt

G

U.S. Department of
Health and Human Services
Social Security Administration
Office of Policy
SSA Pub. No. 68-0200303
I.C.N. 996544

Selective Distribution

A26/PSC

To adjust quantity requirements, submit
form SSA-1296, "Request for Address or
Distribution Change."

HE 3. 6/5:



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00303.300 Determining U.S. Citizenship

Form DS-1350 (Certification of Birth) has been added to the list of Conclusive evidence of U.S. citizenship. The DS-1350 is the domestic version of the FS-545. The FS-545 is issued by the Foreign Service Post based on the FS-240. The DS-1350 is issued by the Department of State, Passport Office when derivative U.S. citizenship has been established for passport issuance.

00303.400 Authorized Alien Status

Subsection D. is a new subsection which explains the policy for verifying INS documents.

00304.740 Determining U.S. Residency

Subsection B.4. deletes erroneous information concerning a grommated I-551.

POMS

PROGRAM OPERATION MANUAL SYSTEM

Part 02

General

CHAPTER 003

Evidence

SUBCHAPTER 03

Citizenship, Alien Status, and Residency

This new BASIC completely replaces the existing BASIC (SSA Pub. No. 68-0200303, dated November 1981) and all transmittals through TN 19, dated October 1988.

**U.S. Department of
Health and Human Services
Social Security Administration**
Office of Policy
SSA Pub. No. 68-0200303
I.C.N. 996544

Check List of POMS Transmittals Received

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CONVERSION CHART

BASIC (TN 20) 5-89

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Subchapter 03 - Citizenship, Alien Status and Residency

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00303.130	00303.820
00303.145	Deleted
00303.152	Deleted
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00303.000 Citizenship, Alien Status and Residency

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Citizenship, Alien Status and Residency

Audience

NOTE: The audience for all sections in this subchapter is the same: DO/BO/TSC—CR, CR TII, CR TXVI, DRT, FR, OA, OS, RR, SR, TSC-SR; PSC—CA, CS, CRTA, ICDS, IES, ISRA, RECONR; ODO IND—CATA; ODO SHARE—CA, RECONR; OIO—CA, CATA, CC, CDA, CTS, FCR, LC, RECONR,

Citation

Social Security Act, Section 228(a)(3), Sec 1614(a)(1)(B), Sec. 1836(2)

00303.001 Requirement of U.S. Citizenship or Appropriate Alien Status

A. Policy Principle

An individual must be a **U.S. citizen** or have the **appropriate alien status** to be eligible for the following benefits:

- Benefits at age 72 for uninsured individuals;
- Supplemental Security Income; and
- Health Insurance or Supplemental Medical Insurance for uninsured individuals.

B. Definitions

1. U.S. CITIZEN

An individual who is entitled to the privileges, obligations and duties of the United States; an individual who has the privilege of voting for public offices and is entitled to full protection in the exercise of private rights.

2. U.S. NATIONAL

An individual who, though not a citizen, owes permanent allegiance to the U.S.

3. ALIEN STATUS

The legal status or **statutory classification** of an individual who is neither a U.S. citizen nor a U.S. national.

4. NATURALIZED CITIZEN

An individual upon whom U.S. citizenship is conferred after his/her birth.

C. Operating Policy - Citizenship

U.S. Nationals are treated as U.S. citizens for SSA purposes

D. Related Policy

The **Immigration and Naturalization Service(INS)** has jurisdiction for citizenship and alien status decisions regarding individuals in the U.S. The State Department is responsible for decisions regarding individuals outside the U.S. The determinations of these agencies are binding on all Federal agencies and all States. It is immaterial whether or not the determination is made before or after SSA's determination. SSA follows the appropriate agency's laws, rules and regulations in making citizenship decisions for eligibility for most Social Security programs.

E. References

- RM 00203.110ff for establishing **U.S. citizenship** for an SSN;
- RS 02635.000ff for establishing **alien status** for a deportee;
- GN 05010.000ff for **U.S. citizenship for nonresident withholding tax**.

Citizenship

00303.100 U.S. Citizenship

A. Policy Principle

An individual may become a U.S. citizen:

- by **birth** or
- by **naturalization**

1. U.S. CITIZENSHIP BY BIRTH

U.S. citizens by birth are individuals:

- **who were born in the U.S.** and who at the time of birth were subject to U.S. jurisdiction or
- **who were born outside the U.S.** to a U.S. citizen parent (or parents) who met certain residence requirements.

A. Policy Principle (Cont.)

2. U.S. CITIZENSHIP BY NATURALIZATION

U.S. citizens by naturalization are individuals who acquire U.S. citizenship after birth through:

- individual naturalization or
- collective naturalization or
- derivation from a naturalized parent

See GN 00303.120A.9.

B. Definitions

1. COLLECTIVE NATURALIZATION

Naturalization as a U.S. citizen acquired generally by an act of Congress or Presidential Proclamation (for example, Northern Mariana Islands citizens became U.S. citizens by Presidential Proclamation on November 4, 1986 and by P.L. 94-241) without individual petition.

2. DERIVED NATURAL- IZATION

Naturalization as a U.S. citizen acquired by a child under the age of 18 when both parents (or a divorced parent with custody or a surviving parent) receive naturalized citizenship.

3. DUAL CITIZENSHIP

This occurs when an individual is recognized as a citizen by two countries (i.e., U.S. and a foreign country or two foreign countries). Dual citizenship is conferred by law, not by renunciation or choice.

EXAMPLE 1: An individual born in the Federal Republic of Germany of U.S. citizen parents is a citizen of both West Germany and the U.S.

EXAMPLE 2: A U.S. citizen living in Israel is, after residing there 3 years, automatically granted Israeli citizenship without applying for such under the "Law of Return" if he/she is Jewish and does not decline Israeli citizenship.

4. INDIVIDUAL NATURAL- IZATION

Naturalization as a U.S. citizen acquired by the individual petitioning the Immigration and Naturalization Service for citizenship.

5. SUBJECT TO THE JU- RISDICTION OF THE U.S.

Individuals under the purview of the Fourteenth Amendment (which states that all individuals born in the U.S. and to whom U.S. laws apply are U.S. citizens). Acquisition of citizenship is not affected by the fact that the alien parents are only temporarily in the U.S. at the time of the child's birth.

Under international law, children born in the U.S. to foreign sovereigns or foreign diplomatic officers listed on the State Department Diplomatic List are not subject to the jurisdiction of the U.S.

6. UNITED STATES

When used in a geographical sense, means the 50 states, D.C., Puerto Rico, Guam, Virgin Islands of the U.S., American Samoa, Swain's Island and the Northern Mariana Islands.

NOTE: The Harcon Tract (a small tract of land that was north of the Rio Grande but is now south of the channel since it was diverted) is considered U.S. territory.

Citation

Immigration and Nationality Act: Sections 301, 302, 303, 304, 305, 306, 307, 308, 309, and 310

00303.120 Who Is a U.S. Citizen

A. Policy Principle

The following individuals are U.S. citizens:

1. ONE OF THE 50 STATES OR D.C.

Any individual born in one of the 50 States or the District of Columbia who was subject to the jurisdiction of the U.S. at birth.

NOTE: Individuals born in the Harcon Tract are U.S. citizens because it is considered U.S. territory.

2. PUERTO RICO

Any individual:

**A. Policy Principle
(Cont.)****2. PUERTO RICO (Cont.)**

- a. born in Puerto Rico after January 12, 1941 and subject to the jurisdiction of the U.S. at birth; or
- b. born in Puerto Rico on or after April 11, 1899 and before January 13, 1941 and living in the U.S., Puerto Rico or a U.S. territory on January 13, 1941; or
- c. who is a Puerto Rico native and was residing in Puerto Rico on March 2, 1917, who did not take an oath of allegiance to Spain.

3. CANAL ZONE OR REPUBLIC OF PANAMA

Any individual:

- a. born in the Canal Zone on or after February 26, 1904, and before October 1, 1979, and at least one parent was a U.S. citizen at the time of the claimant's birth; or
- b. born in the Republic of Panama on or after February 26, 1904 to at least one parent who was or is a U.S. citizen employed by the U.S. Government or the Panama Railroad Company or its successor in title (currently the Panama Canal Commission).

4. VIRGIN ISLANDS OF THE U.S.

Any individual:

- a. born in the Virgin Islands of the U.S. on or after January 17, 1917 and subject to the jurisdiction of the U.S.; or
- b. who was a native of the Virgin Islands of the U.S. and was residing in the Virgin Islands of the U.S. on January 17, 1917 and who on February 25, 1927 was not a citizen or subject of a foreign country and was residing in the U.S., Puerto Rico, or Virgin Islands of the U.S.; or
- c. who was born in Virgin Islands of the U.S., was a native of the Virgin Islands of the U.S. and residing in the U.S. on January 17, 1917 and who, on February 25, 1927, was not a citizen or subject of a foreign country and was residing in the Virgin Islands of the U.S.; or
- d. who was a native of the Virgin Islands of the U.S. and was residing in the Virgin Islands of the U.S. on January 17, 1917 as a citizen of Denmark and who on February 25, 1927 was residing in the U.S., Puerto Rico or Virgin Islands of the U.S. and did not make a declaration to retain Danish citizenship; or
- e. who was a native of the Virgin Islands of the U.S. and was residing in the U.S., Puerto Rico, any possession or territory of the U.S., or the Canal Zone on June 28, 1932 and who on that date was not a citizen or subject of a foreign country, regardless of his her residence on January 17, 1917.

5. GUAM

Any individual:

- a. born in Guam after April 10, 1899 and subject to the jurisdiction of the U.S.; or
- b. born in Guam before April 11, 1899 and who continuously resided in the U.S., Guam or a U.S. territory until at least August 1, 1950.

NOTE: Do not consider the individual a U.S. citizen if there is an indication the individual or his or her parents took steps to acquire or preserve foreign citizenship.

6. NORTHERN MARIANA ISLANDS (NMI)

Any individual:

- a. born in the NMI Islands on or after November 4, 1986 (NMI local time) and subject to the jurisdiction of the U.S.; or
- b. born in the NMI who was a citizen of the dissolved Trust Territory of the Pacific Islands (TTPI) on November 3, 1986 (NMI local time) and was domiciled in NMI or in the U.S. (or any of its territories or possessions) and who did not owe allegiance to a foreign State; or
- c. who was a citizen of the TTPI on November 3, 1986 (NMI local time) and had been continuously domiciled in the NMI since November 3, 1981 and, unless under age, registered to vote in elections for the Mariana Islands legislature or for any NMI Municipal election prior to January 1, 1975 and who did not owe allegiance to a foreign State; or

A. Policy Principle (Cont.)

6. NORTHERN MARIANA ISLANDS (NMI) (Cont.)

- d. who was domiciled in the NMI on November 3, 1986 (NMI local time) and although not a TTPI citizen, had been domiciled in the NMI since before January 1, 1974 and who did not owe allegiance to a foreign State.

NOTE: Any NMI resident who is declared a citizen by PL 94-241 may become a non-citizen national by making a declaration of such in any U.S. or NMI Commonwealth court.

7. AMERICAN SAMOA AND SWAIN'S ISLAND

An individual born in American Samoa or Swain's Island is a U.S. National, unless U.S. citizenship was derived from a parent or acquired by marriage. For SSA purposes these individuals are **considered to be U.S. citizens**.

8. BIRTH ABROAD TO U.S. CITIZEN PARENTS

An individual who was born outside the U.S. is a U.S. citizen if:

- a. **both parents** were U.S. citizens at the time of the child's birth and at least one parent had resided in the U.S. or its outlying possessions before the birth of the child; or
- b. **one parent** was a U.S. citizen and the **other parent** was a **noncitizen national** at the time of the child's birth, and the U.S. citizen parent resided in the U.S. or an outlying possession for a period of at least 1 year before the child's birth; or
- c. **one parent** was a U.S. citizen and the **other** was an **alien** at the time of the child's birth; (See GN 00303.300B.4.C. INS makes the determination in these cases.) or
- d. he/she was born **out of wedlock** to a U.S. citizen **mother** who had resided in the U.S. or an outlying possession before the child's birth (a residence period of at least a year for births after 12/24/52); or
- e. he/she was born **out of wedlock** to a U.S. citizen **father** who had resided in the U.S. or an outlying possession for a period of at least a year before the child's birth and had legitimated the child **before** the child attained **age 21**. (See GN 00303.300B.4.C. INS makes the determination in these cases.)

NOTE: For births before May 24, 1934, legitimate children acquired U.S. citizenship only through the U.S. citizen father. Therefore, the claimant's citizen father had to meet the residence requirement. For births on or after May 24, 1934, either citizen parent could confer U.S. citizenship by meeting the requisite residence requirement.

9. NATURALIZATION

A naturalized U.S. citizen is one who either **petitions** for U.S. citizenship and is naturalized in a District Court of the U.S. or one who is **collectively naturalized** by a **Congressional Act or Presidential Proclamation**. Collectively naturalized citizens are **legislatively defined** as such when the U.S. incorporates new territory. A child under the age of 18 derives naturalized citizenship without petition when both parents (or a divorced parent with custody or a surviving parent) receive naturalized citizenship.

B. Operating Policy

Consider as a U.S. citizen any individual who meets the Immigration and Nationality Act (INA) definition of citizen.

Citation

Immigration and Nationality Act, Section 349

00303.200 Loss of U.S. Citizenship or Nationality

A. Policy Principle

U.S. citizens either by birth or naturalization may lose their citizenship or nationality if they commit one of the following acts:

- Obtaining naturalization in a foreign state by own application; or,
- Making a formal declaration of allegiance to a foreign sovereignty; or
- Serving in foreign armed forces except with written approval of the U.S. Secretary of State and the Secretary of Defense; or
- Accepting official employment under a foreign government, if acquisition of the foreign nationality or declaration of allegiance is necessary for such employment;

**A. Policy Principle
(Cont.)**

- Making a formal renunciation of nationality before a U.S. diplomatic or consular officer abroad;
- Making a formal renunciation of nationality within the U.S. when the U.S. is in a state of war; or
- Being convicted of treason or bearing arms against the U.S. or similar acts.

**B. Operating
Procedure**

Refer through the Assistant Regional Commissioner, Programs to Office of Retirement and Survivors Insurance, Division of Entitlement, Eligibility and Relationship Branch, any case, where an event has occurred which could result in the claimant's loss of U.S. citizenship and such loss would be material to the claim.

Citation

Immigration and Nationality Act, Section 104. Social Security Act, Section 1614

00303.300 Determining U.S. Citizenship**A. Policy Principle**

The INS has jurisdiction for the determination of U.S. citizenship for an individual in the U.S.

The State Department has jurisdiction for the determination of U.S. citizenship for an individual outside the U.S.

B. Operating Procedure

If the INS or State Department has made a determination of the individual's U.S. citizenship, accept the determination. If no determination has been made, make a determination of U.S. citizenship for SSA purposes only.

1. CONCLUSIVE EVIDENCE FOR ALL SSA PROGRAMS

Accept any of the following documents as **conclusive evidence** of U.S. citizenship for SSA purposes.

- a. A birth certificate showing **birth in the U.S.**
- b. **U.S. Passport** (whether or not still valid) (Do not accept limited passports which are issued for periods of less than 5 years.)
- c. **Form N-560** (Certificate of Citizenship)
- d. **Form N-550** (Certificate of Naturalization)
- e. **Form FS-240** (Report of Birth Abroad of a Citizen of the United States) (See GN 00302.535)
- f. **Form FS-545** (Certification of Birth) (See GN 00302.535) (Issued by a foreign service post.)
- g. **Form DS-1350** (Certification of Birth) Issued by the State Department.)
- h. **Form I-197** (United States Citizen Identification Card) (formerly Form I-179 which was last issued in February (1974)) INS stopped issuing this form in February 1981.
- i. **Northern Mariana Identification Card** - Issued by INS to individuals born in the NMI before November 3, 1986 who are U.S. citizens.

NOTE: If the individual is claiming U.S. citizenship by birth abroad to a U.S. citizen parent and the evidence submitted is a U.S. passport, the passport must be unexpired if the claimant is residing outside the U.S.

**2. OTHER EVIDENCE
(FOR INDIVIDUALS
BORN IN U.S.) - ALL
SSA PROGRAMS**

If conclusive evidence is non-existent, obtain one of the following types of evidence:

- a. Preferred:
 - FS-225 (Card of Identity and Registration)
 - a religious record established in the U.S. within 3 months after birth (even though the religious record may not actually contain information about the place of birth);
 - evidence of civil service employment by the U.S. government before June 1, 1976;
 - census record showing U.S. citizenship or a U.S. place of birth (See GN 00302.700 - GN 00302.760);

B. Operating Procedure (Cont.)**2. OTHER EVIDENCE (FOR INDIVIDUALS BORN IN U.S.) - ALL SSA PROGRAMS (Cont.)**

- any non-SSA document, established at least 5 years before the initial application date, which indicates a U.S. place of birth. The place of birth on the non-SSA document and the application must agree;

- b. If conclusive or preferred evidence is not available, obtain, from at least two individuals, statements which indicate the claimant was born in the U.S., and a reasonable basis for the individuals making the statements to have such knowledge,

3. OTHER EVIDENCE FOR INDIVIDUALS COLLECTIVELY NATURALIZED - ALL SSA PROGRAMS

If conclusive evidence is non-existent, use the following to establish U.S. citizenship for collectively naturalized individuals:

a. Puerto Rico

- evidence of birth in Puerto Rico and the claimant's statement that he/she was residing in the U.S., a U.S. possession or Puerto Rico on January 13, 1941; or
- evidence that the individual was a Puerto Rican citizen and the claimant's statement that he/she was residing in Puerto Rico on March 1, 1917 and that he/she did not take an oath of allegiance to Spain.

b. Virgin Islands of the U.S.

- evidence of birth in the Virgin Islands of the U.S., the claimant's statement of residence in U.S., a U.S. possession or the Virgin Islands of the U.S. on February 25, 1927; or
- the claimant's statement indicating residence in the Virgin Islands of the U.S. as a Danish citizen on January 17, 1917 and residence in the U.S., a U.S. possession or the Virgin Islands of the U.S. on February 25, 1927, and that he/she did not make a declaration to maintain Danish citizenship; or
- evidence of birth in the Virgin Islands of the U.S. and the claimant's statement indicating residence in the U.S., a U.S. possession or territory or the Canal Zone on June 28, 1932.

c. Guam

- evidence of birth in Guam and the claimant's statement indicating residence in the U.S., Guam or a U.S. territory on August 1, 1950; or
- INS statement of citizenship if the individual was born in Guam before April 11, 1899 and resided outside the U.S. or its territories at any time prior to August 1, 1950.

d. Northern Mariana Islands

- evidence of birth in the NMI and TTPI citizenship and of residing in the NMI, U.S., or a U.S. territory or possession on November 3, 1986 (NMI local time) and a statement that the individual did not owe allegiance to a foreign state on November 4, 1986 (NMI local time); or
- evidence of TTPI citizenship, continuous residence in the NMI since before November 3, 1981 (NMI local time) and voter registration prior to January 1, 1975 and a statement that the individual did not owe allegiance to a foreign state on November 4, 1986 (NMI local time); or
- evidence of continuous domicile in the NMI since before January 1, 1974 and a statement that the individual did not owe allegiance to a foreign state on November 4, 1986 (NMI local time)

NOTE: If a person entered the NMI as a nonimmigrant and lived in the NMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.

4. OTHER EVIDENCE OF DERIVATIVE CITIZENSHIP - ALL SSA PROGRAMS

If conclusive evidence is non-existent, make a determination of derivative U.S. citizenship for SSA purposes in situations a, b, c, & d below.

a. Claimant born abroad to U.S. citizen parents

Obtain:

B. Operating Procedure (Cont.)**4. OTHER EVIDENCE OF DERIVATIVE CITIZENSHIP - ALL SSA PROGRAMS (Cont.)**

- evidence of the U.S. citizenship of both parents, evidence of the relationship of the claimant to the parents, and evidence that at least one parent resided in the U.S. or an outlying possession prior to the claimant's birth; or
 - a statement executed by a U.S. consular officer certifying the claimant to be a U.S. citizen and the bearer of a currently valid U.S. passport
- b. **Claimant born abroad to a U.S. citizen parent and a noncitizen national**
Obtain:
- evidence of U.S. citizenship for the U.S. citizen parent and of the U.S. national parent and evidence of the relationship of the claimant to the U.S. citizen parent and that the U.S. citizen parent resided in the U.S., a U.S. possession, American Samoa or Swain's Island for a period of at least 1 year prior to the claimant's birth; or
 - a statement executed by a U.S. consular officer classifying the claimant to be a U.S. citizen and the bearer of a currently valid U.S. passport
- c. **Claimant born out of wedlock abroad to a U.S. citizen mother.**
Obtain:
- evidence of the U.S. citizenship of the mother, evidence of the relationship to the claimant and, for births on or before December 24, 1952, evidence that the mother resided in the U.S. prior to the claimant birth or, for births after December 24, 1952 evidence that the mother had resided, prior to the child's birth, in the U.S. or a U.S. possession for a period of 1 year; or
 - A statement executed by a U.S. consular officer classifying the claimant to be a U.S. citizen and the bearer of a currently valid U.S. passport.
- NOTE:** Foreign-born adopted children do not acquire U.S. citizenship by virtue of adoption by U.S. citizens; they must be naturalized through INS to become U.S. citizens.
- d. **Claimant born in Canal Zone or Republic of Panama**
If conclusive evidence is unavailable, obtain:
- a birth certificate showing birth in Canal Zone on or after February 26, 1904 and before October 1, 1979 and evidence that one parent was a U.S. citizen, at the time of the claimant's birth; or
 - a birth certificate showing birth in the Republic of Panama on or after February 26, 1904 and before October 1, 1979 and evidence that at least one parent was a U.S. citizen and employed by the U.S. government or the Panama Railroad Company or its successor in title.
- e. **All Other Situations**
Refer the individual to INS for a determination of U.S. citizenship.
NOTE: If the individual is outside the U.S., the State Department will make the U.S. citizenship determination.

5. OTHER EVIDENCE OF NATURALIZATION - ALL SSA PROGRAMS

When a foreign-born child is adopted some states issue a new birth certificate. The birth certificate will show the child's adoptive name and usually the foreign place of birth. In the following instances the U.S. birth certificate can be accepted as evidence of naturalization:

- a. **Louisiana**
Accept only if the birth certificate does not contain the statement "not proof of citizenship".
- b. **Nevada**
Accept if the birth certificate does not contain a statement that the document does not establish U.S. citizenship.
- c. **New Jersey**
Accept if the birth certificate does not contain the statement "by adoption".

B. Operating Procedure (Cont.)**5. OTHER EVIDENCE OF NATURALIZATION - ALL SSA PROGRAMS (Cont.)****d. Wisconsin**

Accept any Wisconsin birth certificate as evidence of U.S. citizenship

NOTE: Adoption by a U.S. citizen does not confer U.S. citizenship upon the adopted child. The normal procedure of applying for naturalized citizenship through INS must be followed.

If the birth certificate shows a foreign place of birth and the individual cannot be determined to be a naturalized citizen under the above criteria, obtain other evidence of U.S. citizenship.

6. OTHER EVIDENCE OF U.S. CITIZENSHIP BY MARRIAGE - ALL SSA PROGRAMS

A woman, who herself could have been lawfully naturalized, acquired U.S. citizenship through marriage before September 22, 1922 to a U.S. citizen.

Obtain:

- evidence of U.S. citizenship of the husband, and
- evidence of the relationship, showing the marriage occurred before September 22, 1922.

NOTE: If the husband was an alien at the time of marriage, and became naturalized before September 22, 1922, the wife also acquired naturalized citizenship. If the marriage terminated, the wife maintained her U.S. citizenship if she was residing in the U.S. at that time and continued to reside in the U.S.

7. OBTAINING EVIDENCE OF CITIZENSHIP FROM INS - ALL SSA PROGRAM

If the claimant cannot present adequate evidence of U.S. citizenship, the claimant must complete Form G-641, Application for Verification of Information from INS records, (see GN 00302.950). The claimant sends the form and search fee to the appropriate INS office (See GN 00303.600).

NOTE: If the claimant did not lawfully enter the U.S., INS generally has no information in its records. Refer the claimant to INS for a determination of his/her status.

C. Documentation**1. EVIDENCE - GENERAL**

Follow GN 00301.000ff for requirements for documenting the file concerning the evidence used to establish U.S. citizenship.

2. OTHER - DOCUMENTATION

If conclusive evidence is not used to establish U.S. citizenship, document the file with a brief explanation of why it is not available.

00303.350 Special Procedure for Establishing U.S. Citizenship for SSI Benefits**A. Background**

An allegation of an U.S. place of birth when applying for an SSN can generally be assumed to establish U.S. citizenship. If an individual actually proved his/her citizenship status in a prior claim for benefits from SSA, he/she will not have to resubmit that evidence. In addition, if the enumeration information was provided some time before the application for SSI benefits, it can be assumed the individual had no reason to provide incorrect information.

B. Operating Procedure**1. CLAIMANT IS/WAS ENTITLED TO TITLE II OR UNINSURED HI/SMI BENEFITS**

If the individual currently alleges U.S. citizenship and had to establish U.S. citizenship for for a title II or an uninsured HI/SMI benefit for which U.S. citizenship is a factor of eligibility, use a MBR, along with the current allegation of U.S. citizenship, showing current or prior entitlement to such a benefit as evidence of citizenship.

2. CLAIMANT IS/WAS ELIGIBLE FOR TITLE XVI BENEFITS

If the SSR shows the individual is or was previously receiving SSI, use an SSR showing an AR Code of "A", "C", "N", "Q" or "D" as evidence of citizenship. Input the prior AR Code of "A", "C", "Q" or "D". If the prior AR code was "N," input AR code of "Q".

B. Operating**Procedure (Cont.)****2. CLAIMANT IS/WAS ELIGIBLE FOR TITLE XVI BENEFITS (Cont.)**

In reinstatement cases, if an AR code of "M" or "U" is shown or the AR field is blank, and the claimant alleges U.S. citizenship, develop for evidence of U.S. citizenship.

3. CLAIMANT ALLEGES BIRTH IN THE U.S. AND CITIZENSHIP EVIDENCE IS NOT READILY AVAILABLE

If the claimant alleges U.S. citizenship by **birth in the U.S.** and if citizenship evidence (see GN 00303.300) is not readily available (i.e., cannot be provided within 10 working days), obtain an online NUMIDENT query.

- a. Input AR code "Q", if the **identification data** are **not discrepant** and a U.S. place of birth is shown that agrees with the claimant's allegation, and the evidence (IDN) code is "P".
- b. Input AR code "Q" if:
 - Identification data are not discrepant and a U.S. place of birth that agrees with the claimant's current allegation as shown; and
 - The IDN code is not "N," "R," "X," "Y" or blank; and
 - The numident is at least 5 years old.
- c. If the **identification data** are **discrepant**, resolve the discrepancy and determine if the NUMIDENT belongs to the claimant.
- d. Input AR code "D" if:
 - If the NUMIDENT **does not show a U.S. place of birth** and the claimant says no evidence of U.S. citizenship is available; and
 - If the claimant has continuously **resided in the U.S. since January 1, 1972.** (See SI 00501.420G.)

NOTE: By definition AR code "D" indicates that the **allegation of U.S. citizenship was not established**, but that **eligibility is for benefits established because of presence in the U.S. since January 1, 1972.** If the claimant had alleged he/she was an alien, the presumption of lawful admission for permanent residence would establish eligibility for SSI (the presumption being that the alien could apply to INS and be granted lawfully admitted for permanent residence status). Because the individual alleged U.S. citizenship and established continuous U.S. residence since before January 1, 1972, this does not create a presumption of U.S. citizenship, but the individual is eligible for SSI as if he/she were an alien.

4. CLAIMANT ENTITLED TO STATE ASSISTANCE PAYMENTS PRIOR TO JUNE 1971

Assume the State established U.S. citizenship, if the claimant alleges U.S. citizenship and submits evidence of receiving before June 1971:

- old-age assistance from Colorado, Indiana, Texas, or South Carolina; or
- Aid to the Blind from Indiana; or
- Medical Assistance for the Needy from Florida; or
- Public assistance for Arizona, Florida, New Hampshire, North Dakota, or Wyoming.

C. Documentation**1. CLAIMANT IS/WAS ENTITLED TO TITLE II OR UNINSURED HI/SMI**

Place a MBR printout showing entitlement as a "J", "K", "T", or "M", (except for End State Renal Disease (ESRD) claims) in the file. **Annotate the printout** that it is being used as evidence of U.S. citizenship.

2. CLAIMANT IS/WAS ELIGIBLE FOR TITLE XVI BENEFITS

Place an SSR printout showing AR code of "A", "C", "N", "Q" or "D" in the file. **Annotate the printout** that it is being used as evidence of U.S. citizenship.

3. CLAIMANT ALLEGES CITIZENSHIP EVIDENCE NOT READILY AVAILABLE

Place an online NUMIDENT printout showing a U.S. place of birth agreeing with the claimant's allegation in the file.

If the identification data is discrepant, show the resolution of the discrepancy.

If the NUMIDENT does not show a U.S. place of birth place in the file:

C. Documentation

(Cont.)

3. **CLAIMANT ALLEGES CITIZENSHIP EVIDENCE NOT READILY AVAILABLE (Cont.)**
 - Any evidence that shows the claimant was **present in the U.S. before January 1, 1972** and
 - A **signed statement** indicating the beginning and ending dates of all **periods of residence since January 1, 1972**. The statement does not need to show the complete street address; it need only show town and/or state.
4. **CLAIMANT ENTITLED TO STATE ASSISTANCE PAYMENTS PRIOR TO JUNE 1971**

Place in the file information from the Welfare files of the State indicating the claimant was a U.S. citizen and/or received one of the following payments prior to June 1971:

 - a. Old-age assistance from Colorado, Indiana, Texas, or South Carolina; or
 - b. Aid to the Blind from Indiana; or
 - c. Medical assistance for the Needy from Florida; or
 - d. Public Assistance from Arizona, Florida, New Hampshire, North Dakota, or Wyoming.

D. References

- **SM 01005.630ff** - AR field coding
- **SM 02001.401** - SSR/NUMIDENT interface.
- **RM 00208.010ff** - requesting and reading a NUMIDENT printout.

Alien Status**00303.400 Authorized Alien Status****A. Policy Principle**

An individual who is not a U.S. citizen or a U.S. national and is present in the U.S. must have the authorization of INS to lawfully remain in the U.S.

B. Definitions

1. **ALIEN**

Any individual who is not a citizen or national of the U.S.
2. **CONDITIONAL RESIDENT ALIEN**

An alien granted a 2-year period of permanent resident status based on a "qualifying" marriage to a U.S. citizen or national, or permanent resident alien.
3. **GREEN CARD**

A slang term describing the Alien Registration Receipt Card (I-551, I-151 or AR-3). The current version of the card is not green. (See GN00303.440B.1.)
4. **IMMIGRANT**

An alien who has been lawfully afforded the privilege of resident permanently in the U.S.
5. **IMMIGRATION STATUS**

The legal status conferred on an alien by immigration laws.
6. **INA**

Immigration and Nationality Act
7. **IRCA**

(Immigration Reform and Control Act of 1986) - A public law (P.L. 99-603) that amended and repealed certain sections of the INA. It provides for the legalization of certain illegal aliens and updates the registry date which allows INS to process certain illegal aliens differently.
8. **LAPR**

(Lawfully Admitted for Permanent Residence) - A lawful immigrant who is residing permanently in the U.S. with the authorization of INS (See GN 00303.420.)
9. **LAWFULLY ADMITTED BUT NOT FOR PERMANENT RESIDENCE**

Alien who is lawfully admitted to the U.S. but who is not LAPR. (See GN 00303.450.)
10. **LTR**

(Lawful Temporary Resident) - An alien who has lawful temporary resident status for 1 year under section 201 of IRCA. This is an individual who has applied for legalization. (See SI 00501.430 for entitlement of LTR's to SSI benefits.)

B. Definitions (Cont.)

11. **NATIONALITY** The state or country to which a person owes legal allegiance. The country of birth does not necessarily correspond to the nationality.
12. **NON-IMMIGRANT** An alien temporarily in the U.S. for a specific purpose. This group includes foreign government officials, visitors and students.
13. **PERMANENT NON-IMMIGRANT** An individual who is residing in the U.S. under the provisions of the Compact of Free Association Act of 1985. Under this Act, citizens of the **Republic of the Marshall Islands** and the **Federated States of Micronesia** may enter, reside or work in the U.S. without restriction. (See GN 00303.450B. NOTE.)
14. **PRUCOL** (Permanently residing under color of law) - An alien who is not lawfully admitted for permanent residence status but who is residing in the U.S. with the knowledge and permission of INS, and whose departure from the U.S. INS does not contemplate enforcing. (See SI 00505.440ff.)
15. **PRESUMPTION OF LAWFUL ADMISSION FOR PERMANENT RESIDENCE** An SSA PRUCOL procedure where it is presumed that an alien who entered the U.S. before January 1, 1972 and has continuously resided in the U.S. since that date, could be lawfully admitted for permanent residence. (See SI 00501.420.)
16. **SAW** (Special Agricultural Worker) - An individual who qualifies for legalization under section 302 or 303 or IRCA. SAW's are treated as LAPR for SSA purposes. (See GN 00303.440B.4.)
17. **TRUST TERRITORY OF THE PACIFIC ISLANDS (TTPI)** In 1947 under the United Nations (UN) Trusteeship Agreement, the UN Security Council made the U.S. responsible for various islands located in the Pacific. In November 1986, the Northern Mariana Islands became a Commonwealth of the U.S. and the Republic of the Marshall Islands and the Federated States of Micronesia became self-governing republics. Palau (Belau) is the only island group that is still under the Trusteeship.
18. **I-25** (Parolee's Identity Card) - A form that was issued by INS to Hungarian refugees.
19. **I-94** (Arrival/Departure Record) - A form issued by INS to almost all **documented non-immigrants** (e.g., students, visitors, parolees, refugees and Cuban/ Haitian entrants).
20. **I-151** (Alien Registration Receipt Card) - The version prior to the I-551 which was given to aliens by INS from July 1944 to 1978.
21. **I-551** (Alien Registration Receipt Card) - The regular card, which is type 1, is issued by INS to an immigrant who has been granted LAPR status and is residing in the U.S. (See GN 00303.740B.4. for information concerning other types of the I-551. Also see GN 00303.440B.1.)
22. **TEMPORARY I-551** Given to an immigrant who has either just entered the country and has not yet received an I-551 or to an immigrant who has lost his/ her Alien Registration card and has applied for a replacement I-551. (See GN 00303.440B.4.a.)
23. **I-688** (Temporary Resident Card) - A document given by INS to legalized aliens whose status has been adjusted to that of a LTR. Aliens who have an I-688 because they qualify as **SAWS** will have the **annotation** that the status has been granted pursuant to **section 210 of the INA**. In **change of status** cases, when the alien has applied for and been granted LAPR status, the I-688 will have the **annotation** that the status has been granted **pursuant to section 245 of the INA**.
24. **I-688A** (Employment Authorization Card) - A card is given by INS to aliens who have filed an application to adjust their status to that of a LTR.

C. Operating Policy - General

- All INS documents submitted as evidence of alien status to obtain a benefit payment must be:
- Analyzed in the FO following the information and guidelines in the Administrative Confidential Memorandum; and

**C. Operating Policy -
General (Cont.)**

- Examined in the FO under the black light.

SSA's acceptance of evidence is based upon established legal principles governing the rules of evidence. Accept only the original INS documentation. Do not accept photocopies. Approve the benefit claim only if the evidence used to support it is valid.

**D. Operating Policy -
Verifying Alien Status**

When an alien presents one of the INS documents SSA uses as evidence of alien status for a benefit claim, always examine it.

**1. REVIEWING THE INS
DOCUMENT**

Carefully examine the document visually for agreement with the guidelines in the Administrative Confidential Memorandum.

View the document under the black light for conformation to the special identification check points and fluorescence.

NOTE: Do not accept for review any:

- INS documents which SSA does not use to establish lawful alien status;
- expired INS documents; or
- INS receipts.

**2. WHICH DOCUMENTS
TO VERIFY WITH INS**

Verify the INS document with INS if:

- The document does not conform with the guidelines in the Administrative Confidential Memorandum; or
- The document does not conform to the black light identification check points; or
- The INS stamp does not fluoresce; or
- The document does not appear valid.

**3. VERIFYING THE DOCU-
MENT WITH INS**

Photocopy both sides of the INS document.

Attach the photocopies to a completed G-845. (See RM A00203.540B.2. for how to complete the form and how to interpret INS's response).

Send the completed G-845 and photocopies to the appropriate address in section RM 00203.540.

E. Exhibit

1. MAP OF PACIFIC TRUST TERRITORY AREA



- **Northern Mariana Islands**
This Commonwealth consists of 14 major islands. The three main ones are:
 - Saipan
 - Rota
 - Tinian
 The main urban area is Saipan.
- **Trust Territory of the Pacific Islands**
TTPI These are islands the U.S. administers as a U.S. trust territory. The area remaining in the Trusteeship is Palau (or Belau, which is also known as the Western Caroline Islands). The major islands are:
 - Koror
 - Peleliu
 - Angaur
 - Kayangel
 - Babelthuap
 - Rock Islands
 Koror contains the largest settlement.
- **Federated States of Micronesia**
This country consists of the States of:
 - Kosrae
 - Pohnpei (formerly known as Ponape)
 - Truk
 - Yap
 The republic was formed from the former Kosrae, Yap, Ponape and Truk districts of the TTPI.
The capital is Kolonia, Pohnpei. The major urban areas are:

E. Exhibit (Cont.)

1. MAP OF PACIFIC TRUST TERRITORY AREA (Cont.)

- Moen (Truk)
- Tol (Truk)
- Sokehs (Pohnpei)
- Kitti (Pohnpei)
- Modolenihmw
- Dublon (Truk)
- Fefan (Truk)
- Republic of the Marshall Islands
This new republic is composed of hundreds of small islands. The most populated ones are:
 - Majuro (which is the capital)
 - Kwajalein
 - Ebeye
 - Arno
 - Ine

2. I-551 (Front)

RESIDENT ALIEN			
U.S. Department of Justice, Immigration and Naturalization Service			
Name	GARCIA-LOPEZ, ROSA MARIA		
Date of Birth			
Alien Registration Number	052356 A32500000		
Port of Entry	LOS ANGELES		
Class	SPECIMEN		

Rosa Maria Garcia Lopez

E. Exhibit (Cont.)
I-551 (Back)Alien Registration
Number

Issue/Type

(The first digit indicates the number of alien registration cards issued to the individual. The second digit identifies the type of card.)

ALIEN REGISTRATION RECEIPT CARD
PERSON IDENTIFIED BY THIS CARD IS ENTITLED TO RESIDE PERMANENTLY AND WORK IN THE U.S.

33500000		11	23	663	563	86539
5533		47405	16323	34456	69480	
040380		582	050	07620	9462742	

SPECIMEN CARD

3. I-151

Alien Registration
Number

Date of Birth

Port of Entry/Date of
Entry to U.S.

This is to certify that

SAMPLE

The person named on this card is reported to the nearest Immigration and Naturalization Service office within thirty days after becoming fourteen years of age and has been duly registered according to law and was admitted to the United States as an immigrant at

NO DAY, YR. OF ENTRY NO DAY, YR. OF ENTRY

NO DAY, YR. OF ENTRY NO DAY, YR. OF ENTRY

Picture appears here

Citation

Immigration and Nationality Act, Section 101, 101(a)(15), 210 and 289

00303.420 Who is an Alien Lawfully Admitted for Permanent Residence (LAPR)**A. Policy Principle**

An LAPR alien is one who has been granted the privilege of permanently residing in the U.S. as an immigrant.

**B. Related Policy -
LAPR Alien Status**

Some individuals who have not been granted LAPR status by INS could be granted such status if they applied for it. In addition, some individuals who have not been granted LAPR status by INS for purposes other than immigration are treated as LAPR immigrants.

**1. AMERICAN INDIAN
BORN IN CANADA**

An American Indian born in Canada may freely enter and reside in the U.S. and is considered to be LAPR if he/she is of at least one-half American Indian blood. This does not include a person who is the spouse or child of such an Indian nor a non-U.S. citizen whose membership in an Indian tribe or family is created by adoption, unless such person is of at least one-half American Indian blood.

**2. KICKAPOO INDIAN
BORN IN MEXICO**

Members of the Texas Band of Kickapoo Indians born in Mexico are entitled to freely cross the borders of the U.S. to live and work in the U.S. These individuals are treated like LAPR's. This provision does not include either a child or spouse who is not a member of the Band. Also not included in this provision are non-U.S. citizens whose membership in the Texas Band of Kickapoo is created by adoption.

**B. Related Policy -
LAPR Alien Status**

(Cont.)

**3. SPECIAL AGRICUL-
TURAL WORKERS AND
ADDITIONAL AGRI-
CULTURAL**

Foreign agricultural workers who performed seasonal agricultural work in the United States for a least 90 days during the 12-month period ending on May 1, 1986, may apply for and be granted LTR status. INS may adjust the status of aliens granted LTR status to that of an LAPR 1 year after the LTR application period closes. Beginning in fiscal year 1990 and ending in fiscal year 1993, additional aliens (as determined by the Secretaries of Labor and Agriculture) may be admitted to the U.S. in LTR status to perform seasonal agricultural services. At the end of a 3-year period beginning on the date the LTR was granted, the alien's status may be adjusted to that of an LAPR.

Section 210(a)(5) of the INA specifies that a LTR SAW is to be considered as an LAPR alien for all purposes except immigration. Therefore, consider a SAW in either temporary or permanent status to be eligible for any SSA program.

For SSA purposes, such aliens are considered LAPR and thus, not subject to PRUCOL rules.

C. References

- GN 05010.030 - LAPR for non-resident alien taxation purposes.
- SI 00501.421 - presumption of LAPR.
- GN 00303.400 B. - permanent non-immigrants.
- GN 00303.450 - individuals lawfully admitted but not for permanent residence.
- SI 00501.420 - PRUCOL.

Citation

8CFR.211.3, 25 USC 1300B-13

00303.440 Determining LAPR Status**A. Policy Principle**

INS has jurisdiction for the determination of LAPR status.

**B. Operating Policy -
LAPR Alien Status**

If INS has made a determination of the individual's alien status, accept the determination. If no determination has been made, make a determination of LAPR in certain situations for SSA purposes.

**1. EVIDENCE OF LAPR
STATUS**

Accept any of the following documents as evidence of LAPR status:

- a. **I-551 (Alien Registration Receipt Card)** Only a type 1 I-551 is unrestricted. See GN 00303.740B.4. for information concerning the various types of I-551's.
NOTE: LTR's may apply for LAPR status after the temporary residence period has been completed. The I-551 for these legalized aliens will show the class code of "W16" or "W26."
The six types of I-551's are:
 - Type 1 (regular I-551) - This type is held by aliens permanently residing in the U.S.
 - Type 2 (commuter I-551) - This type is held by an individual who is a commuter who lives in Mexico or Canada and is lawfully employed in the U.S.
 - Type 3 (Mexican I-586) - This type is issued to Mexican nationals who are applying for an I-586 (Mexican border crossing card). This card permits the individual to cross the border to visit, shop or attend school.
 - Type 4 (Canadian I-586) - This type is held by British subjects residing in Canada or Canadians who are applying for an I-586 (Canadian border crossing card). This card permits the individual to cross the border to visit, shop or attend school.
 - Type 5 (American Indian Card (Kickapoo)) - This type is issued to members of the Texas Band of Kickapoo who were born in Mexico.
 - Type 6 (Parolee (Haitian)) - This type is issued to Haitian parolees.

**B. Operating Policy -
LAPR Alien Status
(Cont.)**

**1. EVIDENCE OF LAPR
STATUS (Cont.)**

b. Temporary I-551 - This temporary evidence may be:

- The following stamp entered in the immigrant's passport:
PROCESSED FOR I-551
TEMPORARY EVIDENCE OF LAWFUL ADMISSION
FOR PERMANENT RESIDENCE
VALID UNTIL _____
EMPLOYMENT AUTHORIZED
- The I-94 or the foreign passport stamped:
TEMPORARY FORM I-551,
ADMISSION FOR PERMANENT RESIDENCE AT
(PORT), _____
(DATE), _____
VERIFIED, _____
(OFFICE OF ISSUANCE), _____
(DATE), _____
(SIGNATURE OF ISSUING OFFICIAL), _____
(TITLE) _____

NOTE: INS may not specify an expiration date. The stamp is valid until the immigrant receives an I-551. When the stamped document has no date entered in the "Valid Until" area, check the date of entry to the U.S. If the entry date is over a year old, check with INS to verify that the claimant's alien status is unchanged.

- c. Form I-151
- d. Form AR-3 annotated alien is LAPR
- e. Form AR-3a annotated the bearer is LAPR
- f. permit to reenter the U.S. issued by INS

**2. EVIDENCE THAT
CLAIMANT IS A
NORTH AMERICAN
INDIAN**

As corroboration for the "one-half American Indian blood" requirement, accept any convincing evidence; e.g., birth or baptismal certificate issued on a reservation, tribal records, letters from the Canadian Department of Indian Affairs, or school record.

**3. EVIDENCE THAT
CLAIMANT IS A
KICKAPOO INDIAN**

All Indians included on the tribal roll are issued a tribal enrollment card indicating the bearer is a member of the Texas Band of Kickapoo. Accept this card, which the Bureau of Indian Affairs began issuing in late 1983, along with evidence of birth in Mexico to establish the individual's alien status.

INS may issue the Indian a type 5 I-551 (with classification code KIP or KIC). Accept this as evidence of proper alien status.

**4. SPECIAL AGRICUL-
TURAL WORKERS**

Accept an I-688 annotated that the alien's status has been granted pursuant to section 210 of INA to establish this status.

**5. ALIEN STATUS PRE-
VIOUSLY ESTAB-
LISHED**

a. Currently Entitled to Benefits

If the individual is currently eligible for SSI and is applying for HI/SMI uninsured benefits, accept an AR code of "K" as evidence that the claimant is an alien LAPR.

b. Previously Entitled to Benefits

If the individual is applying for SSI and has previously established entitlement to deemed insured for HI or HI/SMI uninsured or special age 72 benefits, an MBR showing entitlement as an "M", "T", "J", or "K" is acceptable evidence that the alien is LAPR.

NOTE: Eligibility for SSI payments is not evidence the alien was or is LAPR (he/she may have been/be permanently residing in the U.S. under color of law). Aliens who

**B. Operating Policy -
LAPR Alien Status
(Cont.)**

**5. ALIEN STATUS PRE-
VIOUSLY ESTAB-
LISHED (Cont.)**

are requesting reinstatement of SSI payments must present evidence of their alien status as though filing an initial claim.

C. Documentation

All INS documents submitted must be examined for current validity. Expired documents are not acceptable.

**1. ALIEN GRANTED LAPR
STATUS**

Place a copy of the INS document in the file.

**2. AMERICAN INDIAN
BORN IN CANADA**

Place a copy of the evidence establishing **birth in Canada** and that the individual has "one-half American Indian blood" in file.

**3. KICKAPOO INDIAN
BORN IN MEXICO**

Place a copy of the evidence establishing **birth in Mexico** and a copy of the **tribal enrollment card in the file.**

4. SAW's

Place a copy of the I-688 in the file.

**5. ALIEN STATUS PRE-
VIOUSLY ESTAB-
LISHED**

Place a copy of the SSR or MBR being used as evidence of alien status in the file. Annotate the printout that it is evidence of alien status.

00303.450 Alien is Lawfully Admitted But Not for Permanent Residence

A. Policy Principle

The INS has jurisdiction for the determination of who is lawfully admitted to the U.S. but is not LAPR.

Aliens in the parolee category meet the alien eligibility requirements for SSI under PRUCOL criteria (See SI 00501.440).

Most aliens legalized by the provisions of the IRCA may meet the alien eligibility requirements for SSI under PRUCOL criteria. (See SI 00501.430) SAW's are considered LAPR for benefit purposes. (See GN 00303.420B.3.)

**B. Operating Policy -
Temporary Alien
Status**

These aliens generally have some documentary evidence of their status:

- Foreign government representatives on official business and their families and servants;
- Visitors for business or pleasure, including exchange visitors;
- Aliens in travel status while traveling directly through the U.S.;
- Crewmen on shore leave;
- Treaty traders and investors and their families;
- Foreign students;
- International organization representatives and personnel and their families and servants;
- Temporary workers including agricultural contract workers;
- Members of foreign press, radio, film, or other information media and their families;
- Parolees- aliens who are not otherwise admissible are sometimes permitted to remain in the U.S. at the discretion of the government; or
- Legalized aliens under the IRCA. (See GN 00303.420B.3. for SAW's.)

Aliens in the first nine categories do not meet alien eligibility requirements for Special Age 72, uninsured HI/SMI or SSI benefits.

NOTE: Permanent nonimmigrants, while not technically LAPR's are lawfully permitted to permanently reside and work in the U.S. (see SI 00501.440).

Citation

Social Security Act, Section 202(n)

00303.500 Deportees

- A. Policy Principle** Generally, an individual who has been deported after September 1, 1954 may not receive an RSDI benefit until he/she is later admitted to the U.S. by INS for permanent residence.
- B. Reference** See RS 02635.000ff for a discussion of **deportation** and the effect of deportation on RSDI benefit rights.
- C. Related Procedure - Deportation** If an individual is deported, the procedures in RS 02635.000ff apply whether or not the deportee actually leaves the U.S. If an alien asks if he/she may be deported as a public charge for receiving SSI, tell him/her that INS may find that receiving of SSI is reason for deportation. The determination of deportation is made solely by INS. However, do not stop the individual from filing for SSI because of his/her alien status.
- Refer the individual to INS for more detailed information. (See RS 02635.000ff.)

00303.600 Contacting the Immigration and Naturalization Service

- A. Operating Procedure** Request information about the alien or verification of any INS document from the INS office servicing the address of the claimant.
- B. Reference** See RM A00203.540 C.3. for the addresses of servicing INS offices.

Citation Immigration and Nationality Act, Sec. 101 (a) (33), 101 (a) (36) and 101 (a) (38)

Residency

00303.700 U.S. Residency

- A. Policy Principle** An individual must be a U.S. resident to be eligible for the following benefits:
- Benefits at age 72 for uninsured individuals;
 - SSI; and
 - Health insurance or Supplemental Medical Insurance for uninsured individuals.
- Consider a person to be a resident of the U.S. when he/she establishes a factual place of abode (domicile) and intends to live within the geographic limits of the U.S.

B. Definitions

1. **ABODE** An individual's home; ordinarily means domicile.
2. **DOMICILE** The place where an individual has his/her true fixed and permanent home and principal establishment, to which he/she intends to return whenever away (legal residency).
3. **RESIDENCE** Living in a particular locality (it implies something more than principal presence and something less than domicile).
4. **RESIDENCY** A synonym for domicile.

NOTE: Domicile and residence do not generally mean the same thing. Residence simply requires bodily presence as an inhabitant in a given place while domicile requires bodily presence in that place and also an intention to make it a fixed and permanent home.

C. Operating Policy

If the individual recently entered the U.S., intent is important in establishing the fact of residency. Generally, intent to establish residency is established if the individual rents or buys a dwelling, obtains employment or establishes a business, and joins a church or fraternal organization, etc.

The type of entry to the U.S. does not determine whether the individual intended to establish U.S. residency. However, do not generally consider entry as a visitor or tourist as intent to establish residency.

An individual may establish U.S. residency although he/she has not been "lawfully admitted for permanent residence."

D. References

- SI 00501.400ff - effect an absence from the U.S. has on eligibility for SSI.
- GN 00303.800G. - definition of the U.S. under the HI/SMI program for uninsured individuals
- GN 00303.800G. - definition of the U.S. for Special Age 72 payments purposes.
- RS 02610.005 - definition of the U.S. for applying the 202(t) alien non-payment provisions.
- GN 05010.010 - the definition of the U.S. for non-resident alien withholding tax.
- SI 01130.425 - determining resources when the SSI claimant has more than one living place.

00303.720 Who Is a U.S. Resident

- A. Policy Principle** A U.S. resident is an individual who establishes a factual place of domicile in the U.S. and intends to live here.
- B. Operating Policy - U.S. Residency** Generally accept a U.S. mailing address as indicative of U.S. residency.

B. Operating Policy - U.S. Residency (Cont.)

A temporary absence from the U.S. such as a visit abroad with no intention of abandoning U.S. residency does not terminate or interrupt an individual's period of U.S. residency (see SSR 72-27).

Generally, a visit abroad of more than 6 months is not considered temporary unless there is a strong indication the individual is maintaining U.S. residency. An indication of this would be maintaining a house or apartment in the U.S., paying U.S. income taxes as a U.S. resident for the period while abroad, or other similar acts.

Citation

Regulations 416.1603

00303.740 Determining U.S. Residency

A. Operating Policy - General

Determine U.S. residency if there is an indication that the individual is not residing in the U.S. Determine residency in the following situations:

- The situation raises doubt as to U.S. residency; e.g., the address is a rooming house that caters to a transient population or a post office box or general delivery address in a city or town near Mexico or Canada.
- The address is in care of another person; or
- The claimant presents a grommated I-151; or
- The claimant presents a commuter I-551 (type 2).

Active participation in the U.S. community where the claimant alleges he/she resides indicates the establishment of U.S. residency.

If after establishing U.S. residency, the beneficiary moves to Mexico or Canada, he/she cannot still be considered a U.S. resident, until development establishes he/she is maintaining U.S. residency.

NOTE: U.S. residency cannot be maintained solely by returning to the U.S. one or more days monthly to visit.

B. Operating Procedure

1. SITUATION RAISES DOUBT

If there is an indication that the individual is outside the U.S., question him/her concerning residency.

2. CLAIMANT IS OUTSIDE THE U.S.

If the claimant is outside the U.S.:

- Develop the reason he/she is outside the U.S.;
- Determine where he/she lives in the U.S.;
- Obtain statements of other individuals concerning where the claimant lives; and
- Determine if U.S. residency exists.

3. EVIDENCE ESTABLISHING U.S. RESIDENCY

The following types of evidence establish a strong presumption that the individual is living in the U.S.:

- a. Evidence that the claimant is institutionalized in the U.S.;
- b. Evidence that the claimant owns a home in the U.S.;
- c. Utility bills addressed to the claimant;
- d. Listing in the City Directory;
- e. Regular and frequent participation in social programs such as vocational rehabilitation, Meals On Wheels or evidence showing that the claimant regularly receives services from the Department of Social Services in the claimant's home is convincing;
- f. Employer's statement which shows that the recipient worked on several days a week or evidence which indicates that the claimant worked one or two hours several days weekly;

B. Operating Procedure (Cont.)**3. EVIDENCE ESTABLISHING U.S. RESIDENCY (Cont.)**

- g. Statements by an official of a religious organization that the person regularly attends services and functions sponsored by the organization;
- h. A record of volunteer activity which shows regular and frequent performance;
- i. Clinic cards or doctor's records showing dates of visits for regular treatment.
NOTE: A listing in the telephone directory or a rent receipt by itself is not convincing evidence of U.S. residency. However, in combination with other evidence it does indicate U.S. residency.

If the claimant does not have any of the types of evidence listed above, affirmative answers to the questions below, along with the statements of at least two reliable individuals who can state where the claimant lives and the basis for their knowledge, in conjunction with the SSA interviewer's observations, will generally establish U.S. residency.

- j. Is the bulk of the claimant's household goods (e.g., cooking utensils, dishes, linens, furniture) maintained at this address?
- k. Are all of the claimant's clothing and personal belongings kept at this address?
- l. If the claimant has a bank account, is it at a local U.S. institution?
- m. Does the claimant spend most of his/her time at this address?

EXAMPLE OF INTENT NOT TO ABANDON RESIDENCY: Penelope Throckmorton resided in the U.S. for several years. She went to Canada to visit her son for a few weeks. The short visit extended to 4 months. Penelope took only a suitcase with her on the visit. She continued to pay rent on her apartment in the U.S., as well as utility bills from her U.S. bank account. The bulk of her household goods and clothing were left at her U.S. apartment.

U.S. residency is maintained.

EXAMPLE OF NO INTENT TO ESTABLISH U.S. RESIDENCY: Jacques Vigier, who works in the U.S., owns a house in Canada. He also rents a room in a boarding house in the U.S., near the U.S.-Canadian border, where he occasionally stays if he works late or during inclement weather.

Jacques does not participate in local U.S. social programs; he belongs to and attends church near his home in Canada; his family doctor in Canada provides most of his medical treatment; his household goods, most of his personal belongings except for a change of clothes are kept at his home in Canada; and he banks at a Canadian bank.

Jacques has not established U.S. residency. His room at the boarding house is maintained for convenience; it is not his factual abode.

4. IN CARE OF ADDRESS

If the address of the claimant is in care of another person and the city or town in the address is in a FO service area which borders Canada or Mexico, contact the claimant in person and question him/her regarding U.S. residency.

Be alert for situations where the claimant is using a U.S. mail drop address where relatives and/or friends receive and hold the benefit check for the claimant who may be residing outside the U.S.

Request an explanation of :

- How long the claimant has lived there;
- If not at the in care of address, where the claimant actually resides; where he/she can be reached; and why he/she is not receiving mail where he/she lives;
- How long the claimant has lived at the current abode;
- Who lives at the in care of address;
- The claimant's relationship to that individual; and

B. Operating Procedure (Cont.)

4. IN CARE OF ADDRESS (Cont.)

- When can the claimant be reached at the in care of address.

If further development is needed, obtain the statements of two reliable individuals who can knowledgeably state where the claimant resides.

EXAMPLE OF ABANDONMENT OF U.S. RESIDENCY: Juan Valdez resided in the U.S. for several years. He moved to Mexico and requested a change of address "in care of" his daughter's address in the U.S. Juan is close to his daughter and her family and he returns frequently to the U.S. to visit, often staying overnight. He keeps some clothing and a few toiletry articles at his daughter's home. When visiting, he often visits old acquaintances and joins them for Senior Citizens gatherings and activities. However, Juan has not maintained U.S. residency. He does not participate in local U.S. social programs; he does not attend religious services or functions in the U.S.; he keeps the bulk of his household goods at his home in Mexico; he keeps most of his clothing and personal belongings at his home in Mexico; and although he frequently visits his daughter, most of his time is spent at his home in Mexico.

5. GROMMETED I-151 OR COMMUTER I-551

The I-551 and I-151 are evidence of lawful admission for permanent residence. These documents do not establish the individual is a U.S. resident.

A type-2 I-551 and a grommeted I-151 indicate the bearer has not established U.S. residency, but commutes to the U.S. to work. If the alien establishes U.S. residency, he/she must request a regular I-551 (type 1) from INS.

a. Commuter I-551 (Type-2)

This commuter card looks like the regular Alien Registration Receipt Card. The second digit of the ISS/T field identifies the type of card.

b. Grommeted I-151

This card is easily recognized by the punched hole which may have a metal ring around it.

Citation

Social Security Act, Sections 1818, 1836 and 1839; PL 89-97, Sec 103; Regulations No. 5., 405.103, 405.205-405.215.

00303.800 Eligibility Under the HI/ SMI Program for Uninsured Individuals

A. Policy Principle

An eligible individual for uninsured HI/SMI or for deemed insured HI must be a **U.S. resident** (see Section G.) and either a **U.S. citizen** or a **LAPR alien** who has continuously resided in the U.S. for the 5 years immediately before the first month of eligibility.

NOTE: End-stage-renal disease has no residency, citizenship or alien status requirements.

B. Definition - United States

(When used for the HI/SMI program for uninsured individuals) The 50 States, District of Columbia, Commonwealth of Puerto Rico, Commonwealth of Northern Mariana Islands, Virgin Islands of the U.S., Guam and American Samoa (including Swain's Island).

C. Operating Procedure - Citizenship

See GN 00303.300 for determining U.S. citizenship. If the individual previously established U.S. citizenship for a title II benefit for which U.S. citizenship is a factor of eligibility use a MBR (along with a current allegation of U.S. citizenship) showing current or prior entitlement to such a benefit, as evidence of citizenship.

D. Operating Procedure - Alien Status

See GN 00303.440 for determining LAPR status.

When the individual attains **age 65 before acquiring LAPR status**, the first month of eligibility cannot be earlier than the month in which LAPR status is acquired. The ADM/ADJ DATE field on the I-551 identifies the date the alien was admitted for permanent residence.

If the I-551 does not have an entry in the ADM/ADJ date field or if the I-151 does not show a date of entry, contact INS to ascertain the date.

D. Operating Procedure - Alien Status (Cont.)

NOTE: While other sources can be used to determine an alien's date of entry to the U.S. only INS can provide the date of adjustment in status or acquiring LAPR status.

E. Operating Procedure - U.S. Residency

See GN 00303.720 for determining U.S. residency.

In addition to establishing U.S. residency the alien must have continuously resided in the U.S. for the 5-year period immediately preceding the month of effective enrollment (or effective filing for deemed HI). The alien need not have had LAPR status during this 5-year period.

1. ADM/ADJ DATE ON I-551 AT LEAST 5 YEARS EARLIER THAN EFFECTIVE ENROLLMENT DATE

The I-551 ADM/ADJ date field generally reflects the alien's lawful date of entry to the U.S. If the ADM/ADJ is at least 5 years earlier than the first month of eligibility, use the date shown on the I-551 as the date of entry to the U.S.

2. I-151 DOES NOT SHOW DATE OF ENTRY TO U.S.

If the I-151 does not show the date of entry into the U.S., generally accept the residency statements on the application for Hospital Insurance or application for Medical Insurance. If there is evidence to the contrary or if the residency statements for the current claim do not agree with either the residency statements or date of entry to the U.S. allegation in a prior claim, request evidence of the date of entry to the U.S.

3. ADM/ADJ DATE OR ENTRY DATE IS NOT AT LEAST 5 YEARS EARLIER THAN DATE OF EFFECTIVE ENROLLMENT DATE

If the I-551 shows an ADM/ADJ date or the I-151 shows a date of entry which is not 5 years earlier than the first month of eligibility and the individual alleges an earlier date of entry by which the 5-year residency period would be met, obtain evidence to determine the beginning of the U.S. residency period.

4. ABSENCE FROM U.S. DURING THE RESIDENCY PERIOD

When the alien alleges having a period of absence from the U.S. with no intent to maintain U.S. residency during that absence, the 5-year U.S. residency period begins with the date of the most recent return to the U.S. with the intention of establishing residency.

If the alien alleges intention to maintain U.S. residency during an absence from the U.S. obtain evidence to support the allegation. Such evidence would be:

- payment of U.S. taxes; or
- Reentry permit; or
- Storing personal belongings for future use in the U.S.

F. Operating Procedure - Date of Entry to U.S. When ADM/ADJ Date on I-551 or Entry Date on I-151 Is Not Earlier Than Effective Enrollment Date or Effective Application Date

Under certain circumstances the admission date on the I-551 or the entry date on the I-151 may be later than the date this alien actually entered the U.S. In certain cases the alien may have entered the U.S. in refugee or some other status before acquiring LAPR status. Therefore, if reliable evidence of the earlier date of entry is not readily available from other sources contact INS for the date of entry in its records.

Reliable evidence from other sources includes (but is not limited to):

- Numident record showing date of application for an SSN;
- Claimant's SSN is a number which was issued more than 5 years ago;
- Documents from the Department of State bearing an entry date, (e.g., visitor's visa);
- Records of refugee assistance agencies; or
- Evidence such as that listed in GN 00303.740 B. 2.

G. Documentation

Document the file with the evidence establishing U.S. citizenship and U.S. residency or alien status and 5-year continuous U.S. residency. If the alien alleges any periods of absence during the 5 year residency period, document the file with the claimant's signed statement explaining his/her intent of maintaining U.S. residency during the absence period.

Citation Social Security Act, Sec. 228 (a) (3)

00303.820 Eligibility For Benefits At Age 72 for Uninsured Individuals

- A. Policy Principle** An eligible uninsured individual for benefits at age 72 must be a U.S. resident (see definition in Section G.) and either a U.S. citizen or a LAPR alien who has continuously resided in the U.S. for the 5 years immediately before the effective filing date.
- B. Definition - United States** (When used for establishing residency for benefits at age 72 for uninsured individuals.) The 50 States, District of Columbia and effective January 1978 the Northern Mariana Islands.

(When used for establishing the 5 years continuous residency for aliens.) The 50 States, District of Columbia, Commonwealth of Puerto Rico, Commonwealth of Northern Mariana Islands, Virgin Islands of the U.S., Guam and American Samoa (including Swain's Island).
- C. Operating Policy - Citizenship** See GN 00303.300 for determining U.S. citizenship. If the individual previously established U.S. citizenship for deemed insured HI or uninsured HI/SMI, use a MBR (along with a current allegation of U.S. citizenship) showing current or prior entitlement to such a benefit as evidence of citizenship.
- D. Operating Policy - Alien Status** See GN 00303.440 for determining LAPR status. When the individual attains age 72 before acquiring LAPR status, the first month of entitlement cannot be earlier than the month in which LAPR status is acquired. The ADM/ADJ DATE field on the I-551 identifies the date the alien was admitted for permanent residence.

If the I-551 does not have an entry in the ADM/ADJ DATE field or the I-151 does not show a date of entry contact INS to ascertain the date.
- E. Operating Policy - U.S. Residency** See GN 00303.700 - GN 00303.740 for determining U.S. residency.

In addition to establishing U.S. residency the alien must have continuously resided in the U.S. for the 5-year period immediately preceding the month of effective filing. The alien need not have had LAPR status during this 5-year period.
- 1. ADM/ADJ DATE ON I-551 AT LEAST 5 YEARS EARLIER THAN THE EFFECTIVE FILING DATE** See GN 00303.800 D.1. for determining the date of entry to the U.S.
- 2. I-151 DOES NOT SHOW DATE OF ENTRY TO U.S.** See GN 00303.800 D. 2 for determining the date of entry to the U.S.
- 3. ADM/ADJ DATE OR ENTRY DATE IS NOT AT LEAST 5 YEARS EARLIER THAN EFFECTIVE FILING DATE** See GN 00303.800 D. 3. for determining the beginning of the U.S. residency period.
- 4. ABSENCE FROM U.S. DURING THE RESIDENCE PERIOD** See GN 00303.800 D. 4. for determining how a period of absence from the U.S. affects U.S. residency.
- 5. INDIVIDUAL CURRENTLY ENTITLED TO DEEMED INSURED FOR HI OR UNINSURED HI/SMI** If the individual previously established U.S. citizenship for deemed insured HI or uninsured HI/SMI and is currently residing in one of the 50 States, the District of Columbia, or the Northern Mariana Islands, use a MBR showing current entitlement to such a benefit, along with a current allegation of U.S. residency, as evidence of U.S. residency.

F. Operating Procedure - Date of Entry to U.S. When ADM/ ADJ Date on I-551 is Not at Least 5 Years Earlier Than Effective Application Dates

See GN 00303.800 E. for determining the date the individual entered the U.S. and began the 5 year continuous U.S. residency period.

G. Documentation

Document the file with the evidence establishing U.S. citizenship and U.S. residency or alien status and 5 years continuous U.S. residency. If the alien alleges any periods of absence during the 5 years residency period, document the file with the claimant's signed statement explaining his/ her intent of maintaining U.S. residency during the absence period.